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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC092

Draft Programmatic Environmental Impact Statement and Restoration Plan to Compensate for Injuries to Natural Resources in Portland Harbor, Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of Availability of a Draft Programmatic Environmental Impact Statement and Restoration Plan; request for comments.

SUMMARY: NOAA, the Department of the Interior (U.S. Fish and Wildlife Service), the Oregon Department of Fish and Wildlife, the Nez Perce Tribe, the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Siletz Indians, and the Confederated Tribes of the Grand Ronde Community of Oregon are collectively referred to as the Trustee Council for this case. The Trustee Council is providing notice that the Draft Programmatic Environmental Impact Statement (PEIS) and Draft Restoration Plan are being released for public comment. The Restoration Plan identifies a restoration

approach to compensate for injuries to natural resources in Portland Harbor in the Lower Willamette River. The Trustees seek damages from potentially responsible parties (PRPs) to restore, rehabilitate, replace or acquire the equivalent of natural resources and services injured by the release of hazardous substances in Portland Harbor. This notice provides details on the availability of and opportunity to comment on the Draft PEIS and Restoration Plan. Comments may be submitted in written form or verbally at a public meeting.

DATES: Written comments must be received by October 7, 2012.

Public meetings to discuss and comment on the Draft PEIS/RP will be held as follows:

- Tuesday, July 17, 2012, 5:30-7:30 p.m., St. Johns Community Center, 8427 N. Central Street, Portland, OR, 97203.
- Thursday, August 2, 2012, 4:30-6:30 p.m., Portland State University, Smith Memorial Student Union, Room 238, 1719 SW 10th Ave, Portland, Oregon, 97201

ADDRESSES: Written comments on the Draft PEIS/RP should be sent to Megan Callahan Grant, NOAA Restoration Center, 1201 NE Lloyd Blvd. #1100, Portland, OR 97232. Comments may be

submitted electronically to
portlandharbor.restoration@noaa.gov.

The Draft PEIS and Restoration Plan is available for viewing at the following locations:

- Multnomah County Central Library
801 SW 10th Avenue
Portland, OR 97205
- Multnomah County Northwest Library
2300 NW Thurman Avenue
Portland, OR 97210
- Multnomah County St. Johns Library
7510 N. Charleston Avenue
Portland, OR 97203

A full electronic copy may be downloaded at:

<http://www.fws.gov/oregonfwo/Contaminants/PortlandHarbor/>

FOR FURTHER INFORMATION CONTACT: Megan Callahan Grant at
(503) 231-2213 or e-mail at megan.callahan-grant@noaa.gov.

SUPPLEMENTARY INFORMATION: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), the Oil Pollution Act (OPA) of 1990, the Clean Water Act (CWA), the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan [NCP]), and other applicable federal and state laws and regulations provide a legal framework for addressing injuries to the

nation's natural resources resulting from releases of hazardous substances and discharges of oil. The National Environmental Policy Act (NEPA) of 1960 requires an assessment of any federal action that may impact the environment, in this case development of a Restoration Plan.

In January of 2007, the Portland Harbor Trustee Council released a Pre-Assessment Screen (PAS) for the Portland Harbor Superfund site. The PAS concluded that natural resources in the area have been affected or potentially affected from releases or discharges of contaminants. Based on the conclusions of the PAS, the Portland Harbor Trustee Council determined that proceeding past the preassessment phase to a full natural resource damage assessment was warranted.

Exposed living natural resources include, but are not limited to: (1) aquatic-dependent mammals such as mink and river otter, and species they depend on as prey items; (2) migratory birds, including osprey, bald eagle, mergansers and other waterfowl, great blue heron, spotted sandpiper and other shorebirds, cliff swallow, belted kingfisher, and other species; (3) threatened and endangered species; (4) anadromous and resident fish, including salmon and

steelhead; (5) reptiles and amphibians; (6) aquatic invertebrates; (7) wapato and other aquatic plants.

Exposed habitat types and water natural resources include wetland and upland habitats, groundwater, and surface water. The services that are provided by these potentially affected natural resources include, but are not limited to: (1) habitat for trust resources, including food, shelter, breeding, foraging, and rearing areas, and other factors essential for survival; (2) consumptive commercial resource use such as commercial fishing; (3) consumptive recreational resource use such as hunting and fishing; (4) non-consumptive uses such as wildlife viewing, photography, and other outdoor recreation activities; (5) primary and secondary contact activities such as swimming and boating; (6) cultural, spiritual, and religious use; (7) option and existence values; (7) traditional foods.

An Assessment Plan was completed in June of 2010. Based on this plan, scientific literature and studies being conducted by the Trustee Council seek to document injuries from hazardous substances found in Portland Harbor. The objective of these studies is to demonstrate (1) how the contamination has harmed the organisms that inhabit the riverine sediments, (2) how the contamination has harmed the fish and wildlife that come into contact with the

contaminated sediments or that eat contaminated prey items, and (3) how the harm to the natural resources has impacted the people that use these resources. Concurrent with the damage assessment, the Trustee Council is conducting restoration planning.

By identifying criteria and guidance to be used in selecting feasible restoration projects, the Restoration Plan provides a framework to maximize the benefits of restoration projects to the affected resources and services in the defined areas of the Lower Willamette River. The Trustee Council analyzed three alternatives including: (1) (preferred) integrated habitat restoration actions that will benefit multiple species and services (those species listed above as potentially affected by releases of hazardous substances, such as salmon and resident fish, mammals such as mink and river otter, and aquatic-dependent birds such as osprey and bald eagle); (2) species-specific restoration actions (for example, augmenting a species population through artificial production); and (3) a no-action alternative (no action takes place and the public is not compensated). A fourth alternative for restoration without a limited geographic boundary was also considered, but was not moved forward for detailed study because it did not meet the purpose and need for the project.

The Trustee Council has opened an Administrative Record (Record). The Record includes documents that the Trustees relied upon during the development of the Draft Restoration Plan and Draft PEIS. The Record is on file at the offices of Parametrix, a contractor to NOAA. The Record is also available at:

<http://www.fws.gov/oregonfwo/contaminants/PortlandHarbor/default.asp>

Dated: June 29, 2012.

Brian T. Pawlak

Acting Director, Office of Habitat Conservation

National Marine Fisheries Service

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